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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,740	03/21/2001	Scott Lewis Strong	DP-301465	3402

7590 05/23/2002

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EXAMINER

NGUYEN, TRAN N

ART UNIT PAPER NUMBER

2834

DATE MAILED: 05/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/813,740

Applicant(s)

STRONG ET AL.

Examiner

Tran N. Nguyen

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. **Claims 1-23** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**In claims 1-23**, “tolerance band” is indefinite because it is unclear what subject matter or force does the tolerance band tolerates. It is understood as “vibration tolerance band”.

**In claim 21**, “said top portion” lacks antecedence basis.

Other claims are included in this rejection due to their dependencies.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-3, 10-11, 14-18, 23** are rejected under 35 U.S.C. 102(b) as being fully anticipated by one of the following references:

Becker (US 2154146) discloses a motor comprising: a housing; a stator and at least one wavy tolerance band ((20) fig 4) acting as a radial spring element positioned between the housing and the stator core.

Alternately, Spreen (US 1688891) discloses a motor comprising: a housing; a stator and at least one wavy tolerance band ((17) figs 1-2) acting as a radial spring element positioned between the housing and the stator core.

Or Norton et al (US 2632861) discloses a motor comprising: a housing; a stator and at least one wavy tolerance band ((13) figs 7) acting as a radial spring element positioned between the housing and the stator core.

Alternately, Takara et al (JP 404171316A) discloses a motor comprising: a housing; a stator and at least one wavy tolerance band ((14) figs 1, 3) acting as a radial spring element positioned between the housing and the stator core.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 4, 13 and 19-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over one of the references listed in the above as applied in the rejection against the base claims, and further in view of level of ordinary skills of a worker in the art.

The Prior-art as applied in the 102 (b) rejection discloses the claimed invention, except for the added limitations of the tolerance band's material and the shape of the wave of the band.

Regarding the material of the tolerance, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a suitable material for the vibration-tolerance band, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Regarding the shape of the vibration-tolerance band, the prior-art discloses a wavy vibration-tolerance band in general; thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the prior-art tolerance wavy band's wave configuration

Art Unit: 2834

because a change in size or shape is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955) (emphasis added).

***Allowable Subject Matter***

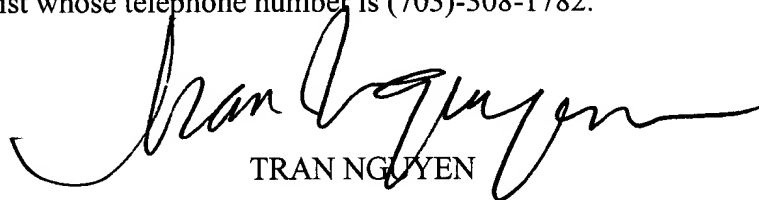
4. **Claims 5-9 and 12** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Communication***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tran N Nguyen whose telephone number is (703) 308-1639. The examiner can normally be reached on M-F 6:00AM-2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703)-308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3431 for regular communications and (703)-395-3432 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1782.



TRAN NGUYEN

PRIMARY PATENT EXAMINER

TC-2800